

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
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CHAPTER 231

SENATE BILL 1232

AN ACT

AMENDING SECTIONS 32-2124, 32-2125.03, 32-2130 AND 32-2131, ARIZONA REVISED
STATUTES; RELATING TO THE REAL ESTATE DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2124, Arizona Revised Statutes, is amended to
3 read:

4 32-2124. Qualifications of licensees

5 A. Except as otherwise provided in this chapter, the commissioner
6 shall require proof, through the application or otherwise, as the
7 commissioner deems advisable with due regard to the interests of the public,
8 as to the honesty, truthfulness, good character and competency of the
9 applicant and shall require that the applicant has:

10 1. If for an original real estate broker's license, at least three
11 years' actual experience as a licensed real estate salesperson or real estate
12 broker during the five years immediately preceding the time of application.

13 2. If for an original cemetery broker's license, either a current real
14 estate broker's license, or if the applicant does not have a current real
15 estate broker's license, at least three years' actual experience as a
16 cemetery salesperson or broker or as a licensed real estate salesperson or
17 broker during the five years immediately preceding the time of application.

18 3. If for an original membership camping broker's license, either a
19 current real estate broker's license, or if the applicant does not have a
20 current real estate broker's license, at least three years' actual experience
21 as a licensed membership camping salesperson or broker or as a licensed real
22 estate salesperson or broker during the five years immediately preceding the
23 time of application.

24 4. If for any type of broker's or salesperson's license, not had a
25 license denied within one year immediately preceding application in this
26 state pursuant to section 32-2153 or a similar statute in any other state.

27 5. If for any type of broker's or salesperson's license, not had a
28 license revoked within the two years immediately preceding application in
29 this state pursuant to section 32-2153 or a similar statute in any other
30 state.

31 6. If reapplying for a license that expired more than one year before
32 the date of application, met all current education and experience
33 requirements and retakes the examination the same as if the applicant were
34 applying for the license for the first time.

35 7. If for a real estate, cemetery or membership camping broker's
36 license, other than a renewal application, an equivalent amount of active
37 experience within the immediately preceding five years in the field in which
38 the applicant is applying for the broker's license, as a substitute for the
39 licensed active experience otherwise required in paragraphs 1, 2 and 3 of
40 this subsection. The licensed active experience required may be met if the
41 applicant can demonstrate to the commissioner's satisfaction that the
42 applicant has an equivalent amount of experience in the past five years that,
43 if the applicant had held a license, would have been sufficient to fulfill
44 the licensed experience requirement.

1 B. All applicants other than renewal applicants under section 32-2130
2 for a real estate salesperson's license shall show evidence satisfactory to
3 the commissioner that they have completed a real estate salesperson's course,
4 prescribed and approved by the commissioner, of at least ninety classroom
5 hours, or its equivalent, of instruction in a real estate school certified by
6 the commissioner and have satisfactorily passed an examination on the
7 course. In no case shall the real estate salesperson's course completion or
8 its equivalent be more than ten years before the date of application unless,
9 at the time of application, the commissioner determines in the commissioner's
10 discretion that the applicant has work experience in a real estate related
11 field and education that together are equivalent to the prelicensure
12 education requirement. The commissioner may waive all or a portion of the
13 prelicensure course requirement, other than the twenty-seven hour Arizona
14 specific course, for an applicant who holds a current real estate license in
15 another state.

16 C. All applicants other than renewal applicants under section 32-2130
17 for a real estate broker's license shall show evidence satisfactory to the
18 commissioner that they have completed a real estate broker's course,
19 prescribed and approved by the commissioner, of at least ninety classroom
20 hours, or the equivalent, of instruction in a real estate school certified by
21 the commissioner and have satisfactorily passed an examination on the
22 course. In no case shall the real estate broker's course completion or its
23 equivalent be more than ten years before the date of application unless, at
24 the time of application, the commissioner determines in the commissioner's
25 discretion that the applicant has work experience in a real estate related
26 field and education that together are equivalent to the prelicensure
27 education requirement. The commissioner may waive all or a portion of the
28 prelicensure course requirement, other than the twenty-seven hour Arizona
29 specific course, for an applicant who holds a current real estate license in
30 another state.

31 D. Prior to receiving any license provided for by this chapter, an
32 applicant shall be at least eighteen years of age.

33 E. The commissioner shall ascertain by written, electronic or any
34 other examination method that an applicant for a real estate license has:

35 1. An appropriate knowledge of the English language, including
36 reading, writing and spelling, and of arithmetical computations common to
37 real estate practices.

38 2. At a minimum, an understanding of the general purpose and legal
39 effect of any real estate practices, principles and related forms, including
40 agency contracts, real estate contracts, deposit receipts, deeds, mortgages,
41 deeds of trust, security agreements, bills of sale, land contracts of sale
42 and property management, and of any other areas that the commissioner deems
43 necessary and proper.

44 3. A general understanding of the obligations between principal and
45 agent, the principles of real estate and business opportunity practice, the

1 applicable canons of business ethics, the provisions of this chapter and
2 rules made under this chapter.

3 F. The commissioner shall ascertain by written, electronic or any
4 other examination method that an applicant for a license as a cemetery broker
5 or a cemetery salesperson has:

6 1. Appropriate knowledge of the English language, including reading,
7 writing and spelling, and of elementary arithmetic.

8 2. A general understanding of:

9 (a) Cemetery associations, cemetery corporations and duties of
10 cemetery directors and officers.

11 (b) Plot ownership, deeds, certificates of ownership, contracts of
12 sale, liens and leases.

13 (c) Establishing, dedicating, maintaining, managing, operating,
14 improving, preserving and conducting a cemetery.

15 (d) The provisions of this chapter and rules made under this chapter
16 relating to the organization and regulation of cemeteries and the licensing
17 and regulation of cemetery brokers and cemetery salespersons.

18 3. A general understanding of the obligations between principal and
19 agent, the principles of cemetery practice and the canons of business ethics
20 pertaining to the operation of cemeteries and the sale of cemetery property.

21 G. The commissioner shall ascertain by written, electronic or any
22 other examination method that an applicant for a license as a membership
23 camping broker or a membership camping salesperson has:

24 1. An appropriate knowledge of the English language, including
25 reading, writing and spelling, and of elementary arithmetic.

26 2. A general understanding of:

27 (a) The general purposes and legal effect of contracts and agency
28 contracts.

29 (b) Establishing, maintaining, managing and operating a membership
30 campground.

31 (c) The provisions of this chapter and rules adopted under this
32 chapter relating to the organization and regulation of membership campgrounds
33 and the licensing and regulation of membership camping brokers and membership
34 camping salespersons.

35 3. A general understanding of the obligations between principal and
36 agent and the canons of business ethics pertaining to the operation and
37 promotion of membership campgrounds.

38 H. No renewal applicant for a real estate, cemetery or membership
39 camping broker's or salesperson's license shall be required to submit to an
40 examination if the application is made within twelve months after the license
41 expires and the license is not cancelled, terminated or suspended at the time
42 of application.

43 I. The examination for a broker's license shall be more exacting and
44 stringent and of a broader scope than the examination for a salesperson's
45 license.

1 J. An applicant for a real estate salesperson's or broker's license
2 who currently holds at least an equivalent license in another state may be
3 exempt from taking the national portion of the real estate examination if the
4 applicant can demonstrate having previously passed a national examination
5 within the past five years that is satisfactorily similar to the one
6 administered by the department.

7 K. Identification of each applicant whose licensing requirement was
8 allowed to be met by an equivalent alternative pursuant to this section shall
9 be included in the annual performance report presented by the board to the
10 governor pursuant to section 32-2104.

11 L. An applicant for an original real estate salesperson's license,
12 after completion of the requirements of subsection B of this section, shall
13 provide certification to the department at the time of application evidencing
14 completion of six hours of instruction in real estate contract law and
15 contract writing. This instruction shall include participation by the
16 applicant in the drafting of contracts to purchase real property, listing
17 agreements and lease agreements.

18 M. The commissioner shall not issue a license to a person who has been
19 convicted of a felony offense and who is currently incarcerated for the
20 conviction, paroled or under community supervision and under the supervision
21 of a parole or community supervision officer or who is on probation as a
22 result of the conviction.

23 ~~N. An applicant or licensee who wants to obtain a license specializing~~
24 ~~in sales of businesses after completion of the requirements of subsection B~~
25 ~~or C of this section and before activation of the person's license shall~~
26 ~~provide certification to the department evidencing completion of twenty four~~
27 ~~hours of instruction in business brokerage. This instruction shall include~~
28 ~~satisfactory proof of passing a test that is acceptable to the department.~~

29 Sec. 2. Section 32-2125.03, Arizona Revised Statutes, is amended to
30 read:

31 32-2125.03. Confidentiality of licensee's residential address,
32 electronic mail address, residential telephone
33 number and social security number

34 ~~A. By filing an original signed statement with the department on a~~
35 ~~form that is prescribed by the department and that is used for no other~~
36 ~~purpose, a licensee may request that the department not release the home~~
37 ~~address and home telephone number of the licensee to any person other than a~~
38 ~~court, a process server or a governmental agency that will use the~~
39 ~~information for a legitimate governmental purpose. The signed statement~~
40 ~~shall indicate why the licensee reasonably believes that there is a risk of~~
41 ~~personal danger to or harassment of the licensee, the licensee's family or~~
42 ~~members of the licensee's household and why maintaining the confidentiality~~
43 ~~of this information will reduce the risk of personal danger or harassment.~~
44 ~~The department shall honor the licensee's request if, after review, the~~
45 ~~commissioner determines that maintaining the confidentiality of this~~

~~information will reduce the risk of personal danger to or harassment of the licensee, the licensee's family or members of the licensee's household.~~

~~B. The department may charge a fee for each request made pursuant to subsection A.~~

~~C. This section applies only to a natural person who holds, has held or has applied for a license under this article. This section does not apply if a licensee's home address or home telephone number is the same as the licensee's business address or business telephone number.~~

A. NOTWITHSTANDING ANY OTHER LAW, A LICENSEE'S OR APPLICANT'S RESIDENTIAL ADDRESS OR RESIDENTIAL TELEPHONE NUMBER MAINTAINED BY THE DEPARTMENT SHALL NOT BE AVAILABLE TO THE PUBLIC UNLESS THE COMMISSIONER DETERMINES THAT DISCLOSURE OF THE RESIDENTIAL ADDRESS OR RESIDENTIAL TELEPHONE NUMBER, OR BOTH, SERVES THE INTERESTS OF JUSTICE AND IS IN THE PUBLIC INTEREST.

B. A LICENSEE'S OR APPLICANT'S ELECTRONIC MAIL ADDRESS SHALL NOT BE RELEASED OR MADE AVAILABLE FOR INSPECTION TO ANY PERSON OTHER THAN A COURT OR A GOVERNMENTAL AGENCY THAT WILL USE THE ELECTRONIC MAIL ADDRESS FOR A LEGITIMATE COURT OR GOVERNMENTAL PURPOSE.

C. THE RESIDENTIAL ADDRESS, ELECTRONIC MAIL ADDRESS AND RESIDENTIAL TELEPHONE NUMBER OF A LICENSEE WHOSE LICENSE IS PLACED ON INACTIVE STATUS ARE CONFIDENTIAL UNLESS THE COMMISSIONER DETERMINES THAT DISCLOSURE OF THE ADDRESSES AND TELEPHONE NUMBER SERVES THE INTERESTS OF JUSTICE AND IS IN THE PUBLIC INTEREST.

D. The department may not release a licensee's social security number or make a licensee's social security number available for inspection by any person other than a court or a governmental agency that will use the information for a legitimate governmental purpose.

Sec. 3. Section 32-2130, Arizona Revised Statutes, is amended to read:

32-2130. Renewal of licenses

A. A license may be renewed in a timely manner by filing an application for renewal in the manner prescribed by the commissioner, by paying the renewal fee specified in this chapter and by presenting evidence of attendance at a school certified by the commissioner during the preceding license period of twenty-four credit hours in the first renewal and forty-eight credit hours in subsequent renewals, or a lesser number of credit hours prescribed by the commissioner, of real estate oriented continuing education courses prescribed and approved by the commissioner. The total number of credit hours shall be accrued at a rate of twenty-four credit hours during each twenty-four month period of licensure. The department shall maintain a current list of approved courses. The commissioner may waive all or a portion of the continuing education requirement for good cause shown.

B. If an applicant is renewing a license within one year after it expired, the applicant may apply continuing education hours completed after the expiration toward the continuing education required for renewal.

1 C. Each renewal application shall contain, as applicable, the same
2 information required in an original application pursuant to section 32-2123.

3 D. Cemetery brokers and salespersons and membership camping brokers
4 and salespersons are exempt from the educational requirements of this
5 section.

6 E. Nothing in this section requires a licensee to attend department
7 produced or sponsored courses if approved courses are otherwise available.

8 ~~F. If a renewal applicant is retaining the specialization in sales of~~
9 ~~businesses designation, the applicant is required to complete business~~
10 ~~brokerage courses for one-half of the credit hours prescribed by the~~
11 ~~commissioner for license renewal pursuant to this section.~~

12 ~~G.~~ F. Between the expiration date of the license and the date of
13 renewal of the license, the rights of the licensee under the license expire.
14 While the license is expired it is unlawful for a person to act or attempt or
15 offer to act in a manner included in the definition of a real estate,
16 cemetery or membership camping broker or salesperson. If the license of an
17 employing broker expires under this subsection, the licenses of persons who
18 are employed by the employing broker shall be severed from the employing
19 broker on the license expiration date of the employing broker. These persons
20 may be rehired on renewal of the employing broker's license. The department
21 shall terminate a license that has been expired for more than one year.

22 ~~H.~~ G. No more than one year after the license expiration date, the
23 department shall renew a license without requiring the applicant to submit to
24 an examination if the applicant held a license that was not canceled or
25 suspended at the time of expiration. The license period for a license
26 renewed pursuant to this subsection commences the day after the expiration
27 date of the expired license. Except as provided in section 32-2131,
28 subsection A, paragraph 4 or 6, an applicant whose license has been
29 terminated or revoked does not qualify for license renewal.

30 ~~I.~~ H. Any employee or immediate family member of any employee of this
31 state who, pursuant to section 32-2110 or any other law, rule or requirement,
32 is prohibited from using a license issued under this chapter shall have, on
33 the request of the employee or family member, the license placed on inactive
34 status, shall have the right to renew the license and shall not be required
35 to pay further fees until the employee or family member is again eligible to
36 use the license. Renewal fees for the license shall not be required for only
37 as long as the employee or family member is prohibited from using the
38 license.

39 ~~J.~~ I. The department shall not renew the license of a person who has
40 been convicted of a felony offense and who is currently incarcerated for the
41 conviction, paroled or under community supervision and under the supervision
42 of a parole or community supervision officer or who is on probation as a
43 result of the conviction. This subsection does not limit the commissioner's
44 authority and discretion to deny the renewal for any other reason pursuant to
45 this chapter.

1 Sec. 4. Section 32-2131, Arizona Revised Statutes, is amended to read:
2 32-2131. Reinstatement of license

3 A. The commissioner may reinstate a license that was issued under this
4 article and that expired or was canceled, terminated, suspended or revoked as
5 follows:

6 1. For a license that expired pursuant to section 32-2130, subsection
7 ~~G- F~~, by renewal application pursuant to this article.

8 2. For a license canceled pursuant to section 32-2126, subsection A or
9 section 32-2129, subsection B or any other lawful authority:

10 (a) If within the license period, by reapplication and payment of
11 applicable fees.

12 (b) If after expiration of the license, by original or renewal
13 application, as appropriate, pursuant to this article.

14 3. For a license terminated pursuant to section 32-2188, subsection I,
15 by:

16 (a) Repayment in full to the real estate recovery fund.

17 (b) Original application pursuant to this article.

18 (c) Providing evidence that the judgment that caused the recovery fund
19 payment has been fully satisfied.

20 4. For a license terminated pursuant to section 32-2130, subsection
21 ~~G- F~~, by original application pursuant to this article.

22 5. For a license suspended pursuant to section 32-2153, 32-2154 or
23 32-2157 or any other lawful authority:

24 (a) If suspended for failure on the part of the licensee to meet
25 procedural or educational requirements for maintaining the license, and the
26 requirements have subsequently been fully met, and the suspension has been
27 vacated:

28 (i) If within the license period, by reapplication and payment of
29 applicable fees.

30 (ii) If after expiration of the license, by original or renewal
31 application, as appropriate, pursuant to this article.

32 (b) If suspended by order of the commissioner for a specified length
33 of time, and the suspension period has ended:

34 (i) If within the license period, by reapplication and payment of
35 applicable fees.

36 (ii) If after expiration of the license, by original or renewal
37 application, as appropriate, pursuant to this article.

38 6. For a license revoked pursuant to section 32-2153 or any other
39 lawful authority, by original application pursuant to this article.

40 7. For a license suspended or revoked by order of the commissioner and
41 this order is subsequently vacated as to the licensee, by reapplication only.
42 No fees may be assessed. The reapplication may be initiated by the
43 department on behalf of the licensee.

1 B. Except for canceled licenses, reinstatement of a license pursuant
2 to subsection A of this section shall not be made for any licensee who is the
3 subject of a department investigation into alleged violations of this chapter
4 or of a pending administrative proceeding pursuant to article 3 of this
5 chapter.

6 C. This section shall not be interpreted to lessen or reduce the
7 qualifications otherwise required of license applicants under this article or
8 the department's authority to deny a person's application for license
9 reinstatement who does not otherwise meet all of the requirements.

10 Sec. 5. Current holders of a license specializing in sales of
11 businesses

12 This act does not affect any license specializing in sales of
13 businesses that is in effect on the effective date of this act. Those
14 licenses remain valid for the term for which they were issued.

15 Sec. 6. Retroactivity

16 Section 32-2125.03, Arizona Revised Statutes, as amended by this act,
17 applies retroactively to from and after December 31, 2007.

APPROVED BY THE GOVERNOR MAY 20, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2008.